

on the merits that said company is entitled to have and receive the said bonds. Provided, however, that the said decisions of the said Supreme Court in said suit shall apply in like manner and to the same extent and effect to the bonds delivered as aforesaid, whether said bonds are in the hands of said company or their assignee.

The amendments being considered *seriatim*, the first amendment was read and adopted by the following vote:

Yeas—Senators Baker, Burton, Culbertson, Dwyer, Erath, Flanagan, Friend, Ireland, Ledbetter, Morris, Moore, Parker, Randle, Russell, Stirman, Swift, Trolinger and Westfall—18.

Nays—Senators Allison, Bradshaw, Bradley, Camp, Dillard and Hobby—7.

Senator Dillard moved that the substitute offered by him some days since, for the bill under consideration, be adopted, the title of said substitute being "An act to aid in the construction of the International Railroad by donating lands to the company owning the same, upon certain conditions."

Senator Dwyer moved to lay the substitute offered by Senator Dillard upon the table.

A message was received from the Governor.

A message was received from the House announcing the passage of Senate bill No. 160, "An act to re-apportion the State of Texas into Congressional districts," with amendments by the House; also, Senate bill No. 80, "An act to prevent speculations by officers and agents in county, city and town contracts and liabilities," with amendments by the House; also Senate bill No. 71, "An act to amend 'An act to incorporate the Agricultural, Mechanical and Blood Stock Association of Texas,'" approved October 20, 1866; also, that the House had concurred in the first Senate amendment to House bill No. 315, "An act to regulate proceedings in the district court," but that the House refused to concur in the second amendment of the Senate to said bill; also, that the House had adopted the report of the committee of free conference of the two Houses on the disagreement on House bill No. 142; also, the passage of House bill No. 221, "An act to amend the fourth section of an act entitled 'An act to provide for the publication of the decisions of the Supreme Court, and the appointment of a reporter thereof,'" approved November 12, 1866.

On motion of Senator Bradley, the Senate stood adjourned to 3 P. M.

#### AFTERNOON SESSION.

Senate met pursuant to adjournment. Roll called; quorum present.

Senator Westfall in the chair.

On motion of Senator Flanagan, Senator

Burton was excused for two weeks from tomorrow.

(Mr. President in the chair.)

Senator Dillard moved a call of the Senate. Call sustained.

Roll called, and Senators Ball, Erath, Morris, Moore, Randle and Swift were found to be absent.

The sergeant-at-arms was dispatched for absent Senators.

Senators Ball and Morris were announced.

A message from the House was received, announcing that the House was ready to go into joint session for the trial of Judge Priest, of the Fourth Judicial District.

On motion of Senator Davenport, the call was suspended.

Senator Flanagan presented certain papers in the case of Judge Priest, and asked that they be read and spread on the journals.

On motion of Senator Friend, the secretary was instructed to read the papers in joint session.

On motion of Senator Westfall, he was allowed to withdraw certain petitions in the desk of the calendar clerk, the same having been presented heretofore by him.

Senator Friend moved to go into joint session with the House. Carried.

On motion of Senator Ireland, the Senate proceeded to the House to meet it in joint session.

#### IN JOINT SESSION.

Roll of the Senate called; quorum present.

The Speaker of the House announced that the object of the joint session was for the purpose of proceeding with the trial of Judge Priest, of the Fourth Judicial District.

Mr. E. W. Bush then announced that his associate in behalf of the State would be A. J. Peeler, of Travis county.

Mr. E. W. Bush then addressed the joint session in behalf of the State.

Representative Goodwin moved that the brief submitted by Judge Priest be read. Carried, and the brief read.

Mr. A. J. Peeler then addressed the joint session in behalf of the State.

At the close of his argument, on motion of Senator Ireland, the Senators retired to the Senate chamber.

#### IN SENATE.

On motion of Senator Bradshaw, the Senate adjourned to 9 A. M. tomorrow.

#### FIFTY-SECOND DAY.

SENATE CHAMBER, {  
AUSTIN, March 17, 1874. }

Senate met pursuant to adjournment; roll called; quorum present.

Prayer by the chaplain.

Journal of yesterday read and adopted

Senator Friend stated that he had received a dispatch from Senator Ellis, stating that he was ill, and moved that his leave of absence be extended on account thereof. Granted.

On motion of Senator Bradley, the case of Judge Priest, of the Fourth Judicial District, was taken up.

Senator Bradley then offered the following concurrent resolution:

*Resolved by the Senate, the House of Representatives concurring therein,* That lines twelve to eighteen, of rule four, of the Rules of Procedure, to be followed by the Legislature in cases of removal of judges in address, shall hereafter read as follows: "The presiding officer of each house shall put the question, 'Are any of the material charges in the address now pending against Judge . . . , of the . . . District of the State of Texas proven, and shall said address be sustained?' and the vote thereon shall be taken in each house by calling the yeas and nays."

Adopted.

Senator Swift moved a call of the Senate. Call sustained. Roll called, and Senators Flanagan and Randle found to be absent.

The sergeant-at-arms was dispatched for absent Senators.

On motion of Senator Westfall, the call was suspended.

Senator Westfall presented the petition of citizens of Merriltown, Travis county, "asking the passage of a law prohibiting the sale of intoxicating liquors." Read and referred to Judiciary Committee.

Senator Dillard presented the following memorial from Seth Shepard, of Washington county:

AUSTIN, Texas, March 10, 1874.

*To the Honorable Senate of the State of Texas:*

Your memorialist, Seth Shepard, a resident citizen of Washington county, respectfully represents that at an election held in the Sixteenth Senatorial District of Texas, on the seventeenth day of February, A. D. 1874, your memorialist and one Matthew Gaines, were candidates for the office of Senator for said district, and the said Matthew Gaines claims to have received a majority of the votes cast at said election, and has received from the presiding justice of Washington county, who is the returning officer of said district, a pretended certificate of election.

Under and by virtue of said pretended certificate, the said Matthew Gaines claims to be seated as Senator from said district, and your memorialist enters this his protest against the right and claim of said Gaines to be sworn in and seated as the Senator for said district, and assigns for reasons therefor:

First. The said Matthew Gaines did not receive the highest and greatest number of legal votes cast at said election, but that the same was received by your memorialist.

Second. The said Gaines, at the time of said election, was not a lawfully qualified voter of said district, and was not eligible to office therein for this: that he was not a resident of said district for a year previous to said election, as required by article three, section thirteen, of the Constitution of this State, but he was, less than one year previous to said election, a resident of the county of Fayette, which is not in said district.

Third. The said Matthew Gaines, at the time of said election, and now, was not and is not now, eligible to any office in this State, because, on the ninth day of December, A. D. 1871, in the District Court of Fayette county, the said Matthew Gaines was indicted for the crime of bigamy, which said crime is a felony by the penal laws of the State of Texas; and in said court, in due course and process of law, on the fifteenth day of July, A. D. 1873, the said Matthew Gaines was tried, and found and adjudged guilty of the crime of bigamy, as charged in said indictment, and his punishment was fixed at one year's confinement in the State penitentiary. The said Gaines appealed said cause to the Supreme Court of Texas, and was remanded to the jail of Fayette county under stay of execution, there to await the decision of said Supreme Court. There has been no session of said District Court of Fayette county since the conviction of said Gaines, and there has been no order or decree of said court lawfully made, releasing said Gaines from his said confinement in jail as aforesaid, but yet the said Gaines, in violation of law and the order of said court, is now at large by some means unknown to your memorialist. These facts are matters of record, and to seat said Gaines upon them would be in violation of article six, section one, of the Constitution of the State of Texas.

Fourth. Your memorialist further represents that all the facts above alleged were publicly, generally and notoriously known and believed by the voters of the said Sixteenth Senatorial District long prior to and at the time of said election; and the persons pretending to vote for said Gaines, in particular, heard, knew and had good cause to believe that said Gaines was not eligible to the office for which he was a candidate before and at the time of said election; wherefore he says that the votes pretended to be cast and counted for said Gaines should not and ought not to be counted or enumerated at all.

And your memorialist says that he received the highest number of votes cast at

said election for any eligible candidate, and he says that he was duly and legally elected Senator for said Sixteenth Senatorial District, and he prays that he be allowed to qualify and to take his seat in your honorable body as Senator from said district.

And, as in duty bound, etc.,

SETH SHEPARD.

On motion of Senator Swift, the memorial was referred to the Committee on Privileges and Elections.

Senator Baker, chairman of Finance Committee, submitted the following reports:

*Hon. R. B. Hubbard, President of the Senate:*  
Your Committee on Finance, to whom was referred House bill No. 131, "An act authorizing the county court of Galveston county to issue and provide for the payment of bonds to be used in erecting suitable buildings for the Supreme Court," have considered the same, and instruct me to report the same back and recommend its passage.

W. R. BAKER, Chairman.

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Finance, to whom was referred Senate bill No. 272, "An act making an appropriation for the *per diem* pay of the members and the *per diem* pay of the officers and employees of the Fourteenth Legislature of the State of Texas," have considered the same, and have instructed me to report the same back and recommend that it do pass.

W. R. BAKER, Chairman.

Senator Westfall, for Committee on Enrolled Bills, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Enrolled Bills ask leave to report that they have carefully examined Senate bill No. 91, "An act for the relief of the purchasers of University lands, and to validate the patents heretofore issued," and find the same correctly enrolled, and have this sixteenth day of March, at 3:10 P. M., presented the same to the Governor for his approval.

W. H. WESTFALL, for Committee.

Senator Swift, chairman of Committee on Claims and Accounts, submitted the following reports:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Claims and Accounts, to whom was referred Senate bill No. 181, "An act for the relief of T. J. Chandler," beg leave to report that they have examined said bill, and accompanying claims, and owing to constitutional objections, would recommend that said bill do not pass.

W. H. SWIFT, Chairman.

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Claims and Accounts, to whom was referred the petition of S. B. Buckley, State Geologist, for claims as State Geologist, under appointment of Governor J. W. Throckmorton, for services

rendered as such in the years 1866 and 1867, beg leave to report that they have carefully examined said claim, and say that it possesses merit, yet, owing to constitutional objections, recommend that the accompanying bill do not pass.

W. H. SWIFT, Chairman.

Senator Dillard introduced a bill entitled "An act to punish drunkenness." Read first time and referred to Judiciary Committee.

Senator Moore introduced a bill, entitled "An act to regulate the assessment and collection of taxes and to provide penalties for the enforcement of the same." Read first time and referred to the Committee on Finance.

Senator Friend introduced a bill, entitled "An act to provide for the payment of the public debt of the State of Texas." Read first time and referred to Committee on Public Debt.

Senator Allison introduced a joint resolution, proposing certain amendments to the Constitution of the State of Texas. Read first time and referred to Committee on Constitutional Amendments.

A message was received from the House, announcing the passage of House concurrent resolution, fixing time for hearing the case of address against Judge L. W. Cooper.

Senator Bradshaw presented a petition from citizens of Tarrant county, asking that the asked-for extension of time by the Texas and Pacific Railroad be not granted. Read and ordered to lie on the table.

Senator Flanagan introduced a bill entitled "An act to incorporate the Irish Immigration Aid and Colonization Association of the State of Texas." Read first time and referred to Judiciary Committee.

Senator Ireland introduced a bill entitled "An act to authorize the appointment of a competent surveyor to run out and mark the line of the old Nacogdoches and San Antonio road." Read first time and ordered to lie on the table.

The President of the Senate announced that a message from the Governor was handed him yesterday evening during the recess of the Senate.

On motion of Senator Westfall, the message was taken up and read, it being a veto message on Senate bill No. 59, "An act to authorize and allow the several county courts in this State to build court houses and jails and make repairs and improvements for the benefit of the county, and to provide funds to defray the expenses of the same."

MESSAGE OF THE GOVERNOR.

EXECUTIVE OFFICE, }

AUSTIN, March 16, 1874. }

To the Honorable Senate of the State of Texas:  
I respectfully return without my approval, Senate bill No. 59, being "An act to au-

thorize and allow the several county courts in this State to build court houses and jails, and make repairs and improvements for the benefit of the county, and to provide funds to defray the expenses of the same," and ask its reconsideration by you.

I recognize, since the adoption of the constitutional amendments which forbid special legislation, the necessity for a general enactment on this subject, which shall vest the power in county officers, elected by the people, to raise by taxation, when necessary, the means to erect and keep in repair public buildings. When we consider how prone men are when invested with power to use it, it will be seen, that guarded as well as it may be, such a law is not unattended with danger of abuse. The power to levy and collect taxes, is the highest attribute of sovereignty, and should not be delegated except upon the clearest necessity and under the most ample restrictions. I believe that the necessity for its delegation exists in this case and that this bill sufficiently guards the grant against abuse, save and except in sections seven, eight and nine, which authorize the issuance of county bonds. I believe that so long as the actual expenditure is confined to the amount levied and collected from the people by taxation in any one year, the sense of accountability to the people, will always restrain the county court from extravagance, but that when the county courts are authorized to issue bonds which will necessitate *future* taxation, after those composing the court have perhaps ceased to be officers, and the responsibility of providing for the payment of the debt, is, or may be devolved upon others, that sense of accountability, which is the surest guaranty of economy and integrity, is very much lessened and weakened. It is a well-known fact in every business, that there is a wide margin between cash and credit. He who buys on credit and gives his note, not only must pay interest, but must pay more for the article than is paid by the purchaser for cash. This margin is much greater in public, than in private transactions. Let the calculation be made of the highest value that county bonds would probably bring in the market, then add ten per centum per annum interest, and I venture the assertion that for every bond of one hundred dollars issued, on an average, not more than fifty dollars would be realized, yet the entire hundred dollars, with the interest on it, would have to be paid in full by the tax payers. The difference between the amount realized, and the sum sufficient to pay the bond in full, is the price paid by the county for the credit. As a financial transaction, certainly nothing short of an absolute necessity can justify it.

Power to raise money, by issuing and selling bonds, presents an inducement to extravagance, which a necessity for a direct call upon the tax payer would restrain, and when to this extravagant expenditure is added the price paid for the privilege of raising money in that way, it will be seen how rapidly county indebtedness would increase. Under existing laws giving no such facilities for contracting debt, the indebtedness of the counties in Texas would aggregate a very large amount, an amount so great, indeed; that your honorable bodies now have under consideration a bill requiring the debt of the various counties to be funded. The States of this Union, especially those of the Northwest, are oppressed with municipal and county debt, to such an extent that taxation to meet the interest is enormous and most oppressive, all growing out of the issuance of bonds, and the facility for getting money to be paid back in *future*. I would deprecate very much the inauguration of a policy which would start Texas on the highway to results now so much deplored by our neighbors. I infinitely prefer that our county courts should remain ignorant of any other mode of raising money than by taxation, and that the people should know each year, through the taxes they pay, whether their officers are extravagant or economical.

If we pay as we go, we get the full value of our money, and at the same time are independent. We can offer no higher inducement to immigrants than light taxes, and an assurance that when they settle in Texas they are not mortgaged for all time to bond holders. If facilities and inducements for debt and extravagance are withheld, Texas will remain free from the mania everywhere prevalent, of going too fast, resulting, finally, in collapse, and her growth and prosperity will be healthy, solid and enduring.

I can see no objection to this bill, if the clauses authorizing bond issues are stricken out.

Very respectfully,

RICHARD COKE.

On motion of Senator Trolinger, the message and bill were ordered to lie on the table for the present, Senator Trolinger stating his reason for making the move was because the author of the bill, Senator Wood, was absent.

On motion of Senator Ireland, the bill introduced by him this morning, and ordered to lie on the table, entitled "An act to authorize the appointment of a competent surveyor to run out and mark the line of the old Nacogdoches and San Antonio road," was taken from the table and referred to Judiciary Committee.

Senator Friend introduced a bill entitled "An act for the relief of Wm. M. Cook, assignee," and two accompanying petitions

from citizens of Calhoun county, asking the passage of said act. Read and referred to Committee on General Land Office.

Senator Hobby presented a remonstrance from citizens of Polk county against the addition of any part of Trinity county to Polk county. Read and referred to Committee on Counties and County Boundaries.

On motion of Senator Culberson, the Senate took a recess of fifteen minutes.

At the expiration of the time allowed for recess, the Senate was called to order.

The roll was called; quorum present.

A message was received from the House, announcing the passage of the following concurrent resolution:

*Resolved by the House of Representatives, the Senate concurring,* That the rules of procedure to be followed by the Legislature, in cases of removal of judges on addresses, be charged as follows: After twelfth line, section four, insert: "cause or causes contained in the address and notified to the judge, by yeas and nays, which shall be entered in the journals of each house respectively, by the question, 'Are the cause or causes sufficient to vote the address of removal of said judge.' Each member shall vote yea or nay on the question as his name is called."

On motion of Senator Ireland, the message was taken up, read and adopted.

Senator Hobby offered the following resolution:

*Resolved,* That the demurrer filed by the respondent in the address case, entitled "The State of Texas v. M. Priest," be and the same is hereby overruled.

Adopted.

The President then submitted the following question: "Shall the cause or causes against Judge Priest, of the Fourth Judicial District of the State of Texas, be sustained?" Carried by the following unanimous vote:

Yeas—Senators Allison, Ball, Baker, Bradshaw, Bradley, Camp, Culberson, Davenport, Dillard, Dwyer, Erath, Flanagan, Friend, Hobby, Ireland, Ledbetter, Morris, Moore, Parker, Russell, Stirman, Swift, Trolinger and Westfall—24.

Nays—None.

The unfinished business, being the consideration of Senate bill No. 148, "An act to limit the amount to be issued in bonds of the State to the International Railroad Company, and to provide for the payment of the same," as also the substitute offered by Senator Dillard, entitled "An act to aid in the construction of the International Railroad, by donating lands to the company owning the same, upon certain conditions," they were taken up.

The pending question being on the motion of Senator Dwyer, to lay the substitute offered by Senator Dillard on the table, Senator Dwyer withdrew his motion.

Pending the discussion of unfinished business, a message was received from the House, announcing that the House had sustained the charges preferred in the address against Judge Priest, of the Fourth Judicial District, by a vote of seventy-two yeas to ten nays.

A further message was received from the House, announcing that the House had passed Senate concurrent resolution, that the members of the Committee on Constitutional Amendments, of the Senate and House, shall constitute a special joint committee, to take into consideration what amendments are necessary and proper to the present Constitution, to meet the wants of good government, and to report by bill or otherwise, as soon as practicable.

Senator Bradshaw moved that the original bill, as also the substitute offered by Senator Dillard, be indefinitely postponed.

On motion of Senator Hobby, the further consideration of bill and substitute was postponed until to-morrow, at 11 A. M.

On motion of Senator Dillard, the following House bills were taken from the President's desk and referred to the various committees, as follows:

House joint resolution No. 13, authorizing the Treasurer to employ two additional clerks in his office, was read first time and referred to Committee on Comptroller's and Treasurer's offices.

House bill No. 280, "An act making an appropriation to pay the fees due certain officers in cases of impeachment and address against judges, now pending before the Fourteenth Legislature," was read first time and referred to the Finance Committee.

House bill No. 222, "An act to require the Commissioner of the General Land Office to furnish copies of field notes and surveys to the counties of the State," was read first time and referred to Committee on General Land Office.

House bill No. 316, "An act to legalize the acts of certain officers," was read first time and referred to Judiciary Committee.

House bill No. 123, "An act to amend and supplemental to an act to provide for the incorporation of towns and cities," approved May 26, 1873, the same being "An act to amend and supplemental to an act to provide for the incorporation of towns and cities," approved January 27, 1858, was read first time and referred to Judiciary Committee.

House bill No. 205, "An act to protect fish in the inland streams and waters of the State of Texas, during spawning season," was read first time and referred to Committee on State Affairs.

House joint resolution, No. 23, "Authorizing the Governor to settle the claim of

George W. Paschal," was read first time and referred to Committee on Finance.

House bill No. 305, "An act to define the land districts of Brown and of San Saba," was read first time and referred to Committee on Public Lands.

House bill No. 208, "An act to enable clerks of the district court, in certain counties, to qualify as justices of the peace," was read first time and referred to Judiciary Committee.

House bill No. 228, "An act to designate the holidays to be observed in the acceptance and payment of bank bills of exchange, bank checks and promissory notes," was read first time and referred to Judiciary Committee.

House bill No. 221, "An act to amend the fourth section of an act, entitled 'An act to provide for the publication of the decisions of the Supreme Court, and the appointment of a reporter thereof,' approved November 12, 1866," was read first time and referred to the Judiciary Committee.

House bill No. 234, "An act to enable one person to hold two or more offices, in certain counties," was read first time and referred to the Judiciary Committee.

House bill No. 315, "An act to regulate proceedings in the Supreme Court," was taken up.

The House had, on yesterday, accepted one of the Senate amendments thereto, but refused to accept the second amendment, which was as follows: "and from the county of Washington, returnable to Austin, instead of Galveston."

On motion of Senator Ball, the Senate adhered to its amendment.

On motion of Senator Russell, the President appointed as a committee of conference on the disagreement between the two houses, Senators Dwyer, Ball and Russell.

Senate bill No. 56, "An act to regulate the collection of accounts from another State or from another county in this State than that in which suit is brought," together with House amendments, was taken up.

Senator Bradshaw moved that the Senate concur in House amendments.

On motion of Senator Flanagan, the bill and House amendments were referred to Judiciary Committee.

On motion of Senator Ireland, House bill No. 18, "An act to encourage stockraising, and for the protection of stockraisers," was taken up.

Senator Dillard moved that the Senate do not adopt the engrossed rider that was adopted by the House. Carried.

Senator Ireland moved to strike out the word "Austin," in the forty-fourth section of the bill. Carried.

On motion of Senator Bradley, the word

"Leon" was added in the forty-fourth section.

On motion of Senator Allison, the words "Denton" and "Wise" were added in the forty-fourth section.

The bill, as amended, then passed to third reading.

On motion of Senator Ireland, the rules were suspended, bill read third time and passed.

On motion of Senator Ball, the Senate stood adjourned to 9 A. M. to-morrow.

## FIFTY-THIRD DAY.

SENATE CHAMBER,  
AUSTIN, March 18, 1874.

Senate met pursuant to adjournment. Roll called; quorum present.

Prayer by the chaplain of the House.

Journal of yesterday read and adopted.

Senator Bradley, chairman of Committee on General Land Office, submitted the following reports:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on General Land Office, to whom was referred House bill No. 222, "An act to require the Commissioner of the General Land Office to furnish copies of field notes and surveys to the counties of the State," have had the same under consideration, and instruct me to report it back with the recommendation that it do pass.

BRADLEY, Chairman.

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on General Land Office, to whom was referred Senate bill No. 279, "An act for the relief of Wm. N. Cook," are of opinion that said bill is within that class of special legislation which is prohibited by the Constitution, and, therefore, report the same back, with the recommendation that it do not pass.

BRADLEY, Chairman.

Report from Committee on Claims and Accounts:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Claims and Accounts, to whom was referred House bill No. 118, "An act making an appropriation to defray the traveling and other contingent expenses of the Adjutant General, in collecting the State arms," having considered the same, instruct me to report the same back to your honorable body, with the recommendation that it do pass.

W. H. SWIFT, Chairman.

Senator Baker, chairman Finance Committee, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Finance, to whom was referred House bill No. 280, "An act making an appropriation to pay the fees due certain officers, in cases of impeachment